

ORIGINAL

JUDGE FRANK MONTALVO

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXASFILED
2010 AUG 5 AM 10:14
CLERK, US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____
DEPUTYTARA CHERIZARD

Plaintiff

vs.

REGENT & ASSOCIATES, LLP

Defendant

Case Number

CIVIL COMPLAINT

JURY TRIAL DEMANDED

EP 10 CV 0293**COMPLAINT AND JURY DEMAND**

COMES NOW, Plaintiff, Tara Cherizard by and through her undersigned counsel, John Granberg, Esquire of Granberg Law Office, complaining of Defendant, and respectfully avers as follows:

I. INTRODUCTORY STATEMENT

1. Plaintiff, Tara Cherizard, is an adult natural person and brings this action for actual and statutory damages and other relief against Defendant for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337.

3. Venue in this District is proper in that the Plaintiff resides in this District and the Defendant transacts business within this District.

III. PARTIES

4. Plaintiff, Tara Cherizard is an adult natural person residing at 4005 Bull Run Drive, Killeen, TX 76549-4762. At all times material and relevant hereto, Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a (2).

5. Defendant, Regent & Associates, LLP (“Defendant”), at all times relevant hereto, is and was a corporation engaged in the business of collecting debt within the State of Texas with its principal place of business located at 2650 Fountain View Drive, Suite 233, Houston, TX 77057.

6. Defendant is engaged in the collection of debts from consumers using the telephone and mail. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6).

IV. FACTUAL ALLEGATIONS

7. On or around January 12, 2010, the Plaintiff received a letter in the mail from the Defendant stating that an alleged debt is owed. **See Exhibit “A” attached here to.**

8. On or around March 29, 2010, the Plaintiff began receiving calls for an alleged debt of \$4,064.91 due to Bank of America.

9. The Plaintiff has been receiving calls from the Defendant at her place of employment.

10. The Defendant would leave messages with the Plaintiff’s secretary stating that they were calling in regards to a debt.

11. The agent, "Samuel Jordan," was very rude and would speak to the secretary in a harassing tone.

12. "Samuel Jordan" stated that if the Plaintiff did not handle the call, this personal matter would then become a work matter if he had to personally go to her place of employment and issue a citation for a litigation matter.

13. The Plaintiff's co-workers are now aware that there is a so called "suit" since the secretary was informed of this by the Defendant and left a note on the Plaintiff's mailbox.

14. The Defendant continues to call her work number after being told to stop.

15. The Plaintiff informed the Defendant that she was working with the Law Firm of Persels & Associates, the Defendant refused to comply and continued to call.

16. On or around April 8, 2010, Persels and Associates sent a cease and desist letter to the Defendant. **See Exhibit "B" attached hereto.**

17. The Defendant knew or should have known that their actions violated the FDCPA. Additionally, Defendant could have taken the steps necessary to bring their and their agent's actions within compliance of the FDCPA, but neglected to do so and failed to adequately review those actions to insure compliance with the law.

18. At all times pertinent hereto, Defendant was acting by and through its agents, servants and/or employees, who were acting with the scope and course of their employment and under the direct supervision and control of Defendant herein.

19. At all times pertinent hereto, the conduct of Defendant as well as its agents, servants and/or employees, was malicious, intentional, willful, reckless, negligent and in wanton disregard for federal and state law and the rights of the Plaintiff herein.

20. As a result of Defendant's conduct, Plaintiffs have sustained actual damages, including, but not limited to, injury to Plaintiff's reputation, invasion of privacy, damage to Plaintiff's credit, out-of-pocket expenses, physical, emotional and mental pain and anguish and pecuniary loss and she will continue to suffer same for an indefinite time in the future, all to her great detriment and loss.

COUNT I – FDCPA

21. The above paragraphs are hereby incorporated herein by reference.

22. At all times relevant hereto, Defendant was attempting to collect an alleged debt which was incurred by Plaintiff for personal, family or household purposes and is a "debt" as defined by 15 U.S.C. § 1692a(5).

23. The foregoing acts and omissions constitute violations of the FDCPA, including but not limited to, violations of:

- | | |
|-----------------|--|
| §§ 1692b(2): | Contact of Third Party: Stated that the consumer owes any debt |
| §§ 1692b(3): | Contact of Third Party: Contacted a person more than once, unless requested to do so |
| §§ 1692b(6): | Contact of Third Party: After knowing the consumer is represented by an attorney |
| §§ 1692c(a)(1): | At any unusual time, unusual place, or unusual time and place known to be inconvenient to the consumer |
| §§ 1692c(a)(2): | After it knows the consumer to be represented by an attorney unless attorney consents or is unresponsive |

- §§ 1692c(a)(3): At place of employment when knows that the employer prohibits such communications
- §§ 1692c(b): With anyone except consumer, consumer's attorney, or credit bureau concerning the debt
- §§ 1692c(c): After written notification that consumer refuses to pay debt, or that consumer wants collector to cease communication
- §§ 1692d: Any conduct the natural consequence of which is to harass, oppress, or abuse any person
- §§ 1692d(5): Caused the phone to ring or engaged any person in telephone conversations repeatedly
- §§ 1692e: Any other false, deceptive, or misleading representation or means in connection with the debt collection
- §§ 1692e(5): Threaten to take any action that cannot legally be taken or that is not intended to be taken
- §§ 1692e(10): Any false representation or deceptive means to collect a debt or obtain information about a consumer
- §§ 1692f: Any unfair or unconscionable means to collect or attempt to collect the alleged debt

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant, Regent & Associates, LLP for the following:

- a. Actual damages;
- b. Statutory damages pursuant to 15 U.S.C. § 1692k;
- c. Reasonable attorney's fees and litigation expenses, plus costs of suit; and
- d. Such additional and further relief as may be appropriate or that the interests of justice require.

V. JURY DEMAND

Plaintiff hereby demands a jury trial as to all issues herein.

Respectfully submitted,

GRANBERG LAW OFFICE

Date: July 29, 2010

BY: /s/ John Granberg
John Granberg, Esquire

Granberg Law Office
1214 Montana Suite C
El Paso, TX 79902
915-490-8451 Fax 915-541-8500
Attorneys for Plaintiff

Exhibit "A"

LAW OFFICES OF
REGENT & ASSOCIATES
2650 FOUNTAIN VIEW DR., SUITE 233
HOUSTON, TEXAS 77057

Anh H. Regent
info@regentlaw.com

(713) 266-1458 TELEPHONE
(713) 490-7075 FACSIMILE
1-877-530-1000 TOLL FREE

January 12, 2010

TARA D CHERIZARD
C/O TARA D CHERIZARD
4005 BULL RUN DR
KILLEEN TX 76549-4762

RE: Debtor: TARA D CHERIZARD
Creditor: FIA CARD SERVICES, N.A.
Account Number(s): [REDACTED]
Amount Claimed: \$4,064.91

Dear TARA D CHERIZARD:

This office has been retained by the above-referenced client in their claim against you. Further this office has been instructed to initiate any and all necessary action in the enforcement of this claim, but before doing so, we are giving you the opportunity to clear this indebtedness. The consequences of your delinquency are viewed as serious. Therefore, demand is made upon you to pay the amount indicated above. All payments and correspondence should be directed to our offices.

Unless you, the recipient of this notice, within thirty (30) days after receipt, dispute the validity of this debt or any portion thereof, the debt will be assumed to be valid. If you notify this office in writing within the thirty (30) day period that the debt, or any portion thereof is disputed, this office will obtain verification of the debt, or a copy of a judgment, and mail it to you. Upon your written request within the thirty (30) day period, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Although we are a law firm, at this time, no attorney with this firm has personally reviewed the particular circumstances of your account. Notwithstanding the above paragraph, this firm can proceed to take appropriate steps to secure payment of the debt prior to the expiration of the thirty days, unless you request verification.

Very truly yours,

REGENT & ASSOCIATES

By: Anh H. Regent

This letter is an attempt to collect a consumer debt and any information obtained will be used for that purpose. This communication is from a debt collector.

Se habla español

NC082572

888-745-9808

866-939-PALAW

Exhibit "B"

PO Box 729
Columbia, MD 21045

PERSELS & ASSOCIATES, LLC
PERSELS & ASSOCIATES, LLP (CA, MI)
A National Law Firm Dedicated to Consumer Rights

Neil J. Ruther, licensed in MD
Leza Griffith, licensed in MD, DC
William Grafton, licensed in MS, TX
Lisa L. Perrillo, licensed in NY, NC
Jimmy B. Persels, Of Counsel, licensed in MD, MO, IL, DC
Dominick Bonino, licensed in GA and TX

Phone: 1-800-498-6761
Fax: 1-410-910-5923

REGENT AND ASSOCIATES, LLP
2650 FOUNTAIN VIEW DRIVE
STE 233
HOUSTON, TX 77057

April 08, 2010

Creditor Account Number: [REDACTED]

Client Name: Tara Cherizard
Client SSN: [REDACTED]

To Whom It May Concern:

Our law firm has been retained by Tara Cherizard. Persels & Associates has a limited power of attorney to represent this client in debt settlement negotiations. Please update your records to the firm as your contact for settlement of our client's debts. Cease all further direct contact with our client pursuant to The Fair Debt Collections Practices Act.

This scope of our representation does not include entry of appearance on behalf of the client in any related litigation. We do not accept service on behalf of our client in any proceeding. All court papers and notices must be served directly on the party.

You can reach Persels & Associates at 1-866-939-PALAW. We will contact you in the future to discuss possible settlement options. We look forward to working with you and appreciate your assistance in resolving this matter so that we can expedite a solution that is best for everyone.

Sincerely,

Dominick Bonino

Persels & Associates



Neil J. Ruther
1-800-498-6761